IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE V.K.MOHANAN

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

RFA.No. 477 of 2007()

OS.190/2001 of PRL.SUB COURT, THIRUVANANTHAPURAM.

APPELLANT/PLAINTIFF

R.SUNIL DAS,
TC 48/410, AMBALATHARA, MUTTATHARA VILLAGE,
THIRUVANANTHAPURAM.

BY ADV. SRI.P.A.AHAMMED
SRI.THOUFEEK AHAMED

RESPONDENTS: DEFENDANT

SASEENDRAN NAIR,
TC 28/1580, SREEKANTESWARAM, THIRUVANANTHAPURAM.

BY ADV. SRI.PRAKASH P.GEORGE

THIS REGULAR FIRST APPEAL HAVING BEEN FINALLY HEARD ON 02/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. RAMAN & V. K. MOHANAN, JJ.

R.F.A. NO. 477/2007 & I.A. NO. 4006/2007

DATED THIS, THE 2ND DAY OF NOVEMBER, 2007.

J U D G M E N T

Raman, J.

This appeal is filed against the judgment and decree in O.S. 190/2001 on the file of the Principal Sub Court, Thiruvananthapuram. The suit is for specific performance of an agreement for sale executed on 1.9.1999 between the parties. The court below, instead of granting a decree for specific performance of the contract, granted alternate relief of return of the amount paid. In such circumstances, the plaintiff has filed this appeal.

2. During the pendency of the appeal, I.A. 4006/2007 is filed by the parties under Order 23 Rule 3 of the Code of Civil Procedure stating that after due deliberation and discussion, they have agreed to compromise the matter. The terms and conditions of the compromise are reproduced hereunder:

> "1. Respondent hereby agree to execute the sale deed for the plaint schedule property as per the agreement dated 1.9.1999 to the plaintiff for the price of 12 lakhs instead of 8 lakhs.

2. The sale deed shall be executed within a period of two months from the date of this compromise petition.
3. The respondent acknowledges the receipt of 7.5 lakhs as part of the sale consideration and the balance amount of Rs. 4.5 lakhs shall be paid by the appellant on the date of execution of the sale deed.
4. The respondent shall cancel the sale deed No. 71/2000 of the Sub Registry Office, Fort, Thiruvananthapuram executed during the pendency of the suit in favour of his wife Beena and children Reshma, Reshmi before the execution of the sale deed.
5. The respondent shall also discharge the debt due to the tenant Radhakrishnan Nair who is occupying the 1st floor of the building before the date of the sale deed and evict him from the building portion.
6. The respondent shall also furnish the original sale deed of the property and non-encumbrance certificate before the date of sale.
7. The respondent hereby agrees to withdraw RFA filed before this Hon'ble Court against the decree & judgment in O.S. No. 190/2001 of the Principal Sub Court, Thiruvananthapuram."

Accordingly, a decree is passed in terms of the above compromise in substitution of the decree passed by the court below. Half the court fee paid shall be refunded to the appellant.

P.R. RAMAN,
(JUDGE)

V. K. MOHANAN,
(JUDGE)

knc/-